

§ 327. Courts-martial of National Guard not in Federal service: convening authority

(a) In the National Guard not in Federal service, general, special, and summary courts-martial may be convened as provided by the laws of the respective States and Territories, Puerto Rico, and the District of Columbia.

(b) In the National Guard not in Federal service—

(1) general courts-martial may be convened by the President;

(2) special courts-martial may be convened—

(A) by the commanding officer of a garrison, fort, post, camp, air base, auxiliary air base, or other place where members of the National Guard are on duty; or

(B) by the commanding officer of a division, brigade, regiment, wing, group, detached battalion, separate squadron, or other detached command; and

(3) summary courts-martial may be convened—

(A) by the commanding officer of a garrison, fort, post, camp, air base, auxiliary air base, or other place where members of the National Guard are on duty; or

(B) by the commanding officer of a division, brigade, regiment, wing, group, detached battalion, detached squadron, detached company, or other detachment.

(c) The convening authorities provided under subsection (b) are in addition to the convening authorities provided under subsection (a).

(Aug. 10, 1956, ch. 1041, 70A Stat. 608; Pub. L. 100-456, div. A, title XII, §1234(b)(4), Sept. 29, 1988, 102 Stat. 2059; Pub. L. 107-314, div. A, title V, §512(b), Dec. 2, 2002, 116 Stat. 2537.)

HISTORICAL AND REVISION NOTES

<i>Revised section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
327(a)	32:92 (1st 46 words).	June 3, 1916, ch. 134, §103,
327(b)	32:92 (less 1st 46 words).	39 Stat. 208.

In subsection (a), the words “Federal service” are substituted for the words “service of the United States”.

In subsection (b), the words “A general court-martial may sentence to—” are substituted for the words “and such courts shall have the power to impose * * * to sentence”. The words “any combination of these punishments” are substituted for the words “or any two or more of such punishments may be combined in the sentences imposed by such courts”.

AMENDMENTS

2002—Pub. L. 107-314 amended section catchline and text generally. Prior to amendment, text read as follows:

“(a) In the National Guard not in Federal service, general courts-martial may be convened by the President or by the governor of a State or Territory or Puerto Rico or by the commanding general of the National Guard of the District of Columbia.

“(b) A general court-martial may sentence to—

“(1) a fine of not more than \$200;

“(2) forfeiture of pay and allowances;

“(3) a reprimand;

“(4) dismissal or dishonorable discharge;

“(5) reduction of a noncommissioned officer to the ranks; or

“(6) any combination of these punishments.”

1988—Subsec. (a). Pub. L. 100-456 substituted “Territory or Puerto Rico” for “Territory, Puerto Rico, or the Canal Zone.”.

MODELS FOR STATE CODE OF MILITARY JUSTICE AND STATE MANUAL FOR COURTS-MARTIAL

Pub. L. 107-314, div. A, title V, §512(e), Dec. 2, 2002, 116 Stat. 2537, provided that:

“(1) The Secretary of Defense shall prepare a model State code of military justice and a model State manual for courts-martial to recommend to the States for use with respect to the National Guard not in Federal service. Both such models shall be consistent with the recommendations contained in the report that was issued in 1998 by the Department of Defense Panel to Study Military Justice in the National Guard not in Federal Service.

“(2) The Secretary shall ensure that adequate support for the preparation of the model State code of military justice and the model State manual for courts-martial (including the detailing of attorneys and other personnel) is provided by the General Counsel of the Department of Defense, the Secretary of the Army, the Secretary of the Air Force, and the Chief of the National Guard Bureau.

“(3) If the funds available to the Chief of the National Guard Bureau are insufficient for paying the cost of the National Guard Bureau support required under paragraph (2) (including increased costs of pay of members of the National Guard for additional active duty necessitated by such requirement and increased cost of detailed attorneys and other staff, allowances, and travel expenses related to such support), the Secretary shall, upon request made by the Chief of the Bureau, provide such additional funding as the Secretary determines necessary to satisfy the requirement for such support.

“(4) Not later than one year after the date of the enactment of this Act [Dec. 2, 2002], the Secretary shall submit a report on the actions taken to carry out this subsection to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives. The report shall include proposals in final form of both the model State code of military justice and the model State manual for courts-martial required by paragraph (1), together with a discussion of the efforts being made to present those proposals to the States for their consideration for enactment or adoption, respectively.

“(5) In this subsection, the term ‘State’ includes the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, and Guam.”

[[§§ 328 to 333. Repealed. Pub. L. 107-314, div. A, title V, § 512(c)(1), Dec. 2, 2002, 116 Stat. 2537]]

Section 328, act Aug. 10, 1956, ch. 1041, 70A Stat. 608, related to special courts-martial of National Guard not in Federal service.

Section 329, act Aug. 10, 1956, ch. 1041, 70A Stat. 608, related to summary courts-martial of National Guard not in Federal service.

Section 330, act Aug. 10, 1956, ch. 1041, 70A Stat. 609, related to confinement instead of fine for a court-martial in the National Guard not in Federal service.

Section 331, acts Aug. 10, 1956, ch. 1041, 70A Stat. 609; Pub. L. 100-456, div. A, title XII, §1234(b)(3), Sept. 29, 1988, 102 Stat. 2059, related to sentence of dismissal or dishonorable discharge in the National Guard not in Federal service.

Section 332, act Aug. 10, 1956, ch. 1041, 70A Stat. 609, authorized the president of a court-martial or a summary court officer to compel attendance of accused and witnesses in the National Guard not in Federal service.

Section 333, acts Aug. 10, 1956, ch. 1041, 70A Stat. 609; Pub. L. 100-456, div. A, title XII, §1234(b)(1), Sept. 29, 1988, 102 Stat. 2059, related to execution of process and sentence of courts-martial in the National Guard not in Federal service.

EFFECTIVE DATE OF REPEAL

Pub. L. 107-314, div. A, title V, §512(c)(2), Dec. 2, 2002, 116 Stat. 2537, provided that: “The provisions of law re-